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Technology Security & Foreign Disclosure (TSFD) and Export Control (EC)

Defense Services Considerations

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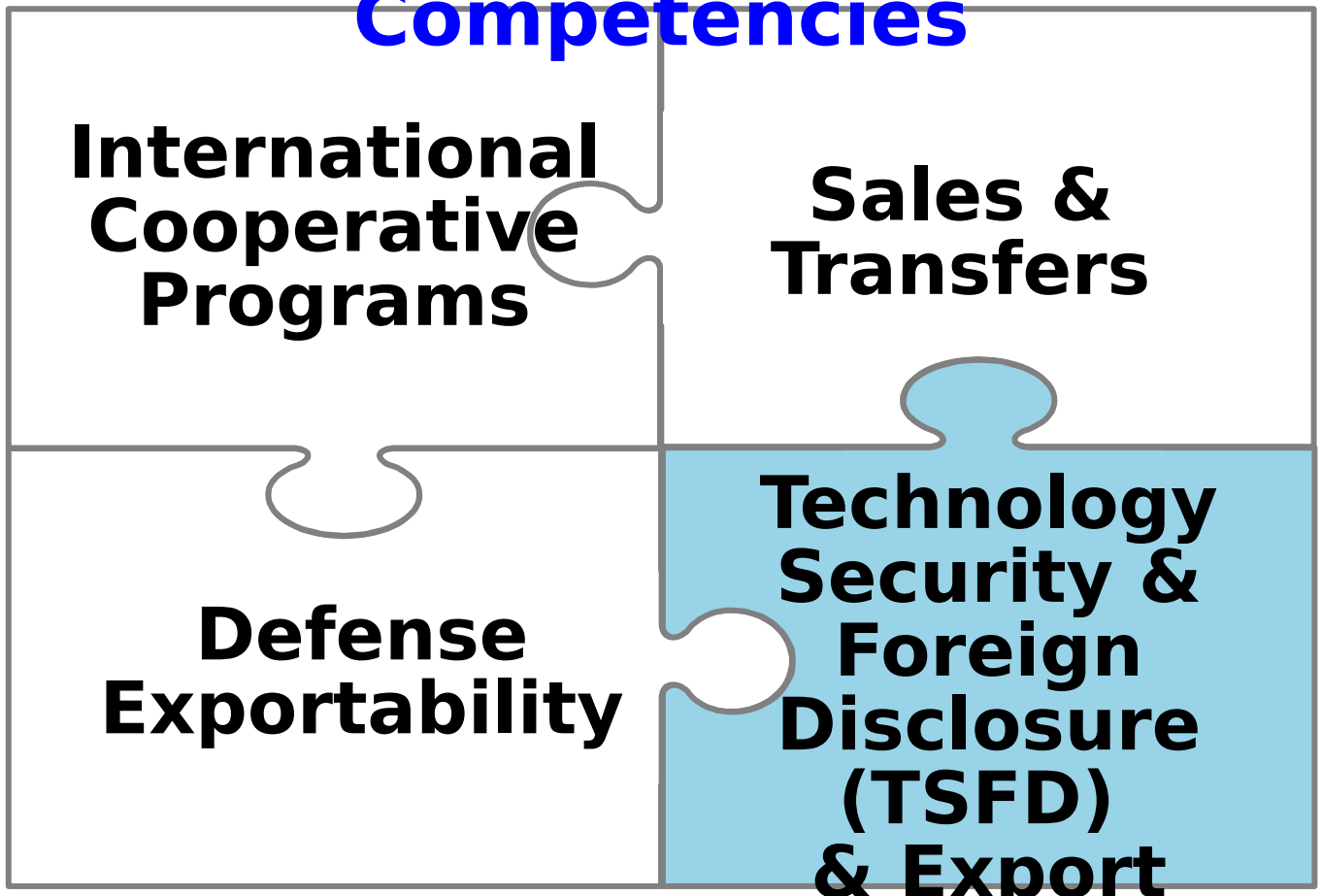
International Acquisition & Exportability (IA&E)

Defense Services Considerations

- TSFD and Export Control Basics
- Key Takeaways
- Info Technology (IT) Basics
- Key Takeaways
- Background Info
  - Technology Security & Foreign Disclosure (TSFD)
  - Export Control

DoD IA&E Competencies


International Cooperative Programs
Sales & Transfers
Defense Exportability
Technology Security & Foreign Disclosure (TSFD) & Export Control

TSFD Basics

Fundamental Security Considerations

Access + **Protection**

Release Conditions

- Not transfer or use for other purposes without U.S. consent
- Provide substantially the same degree of protection as U.S.

Type of Authorizations

TSFD

Disclosure Authorizations

Foreign Visits

Export Control Basics

Fundamental Considerations

Foreign Policy | Country of Origin | Technology Sensitivity | Destination | Recipient

Key Principles

- Control U.S.-origin sensitive technology & equipment
- Promote regional stability
- Human rights
- Prevent proliferation to problem end-users and international terrorists
- Comply with international arms control and technology transfer commitments

Type of Authorizations

State | Commerce | Other

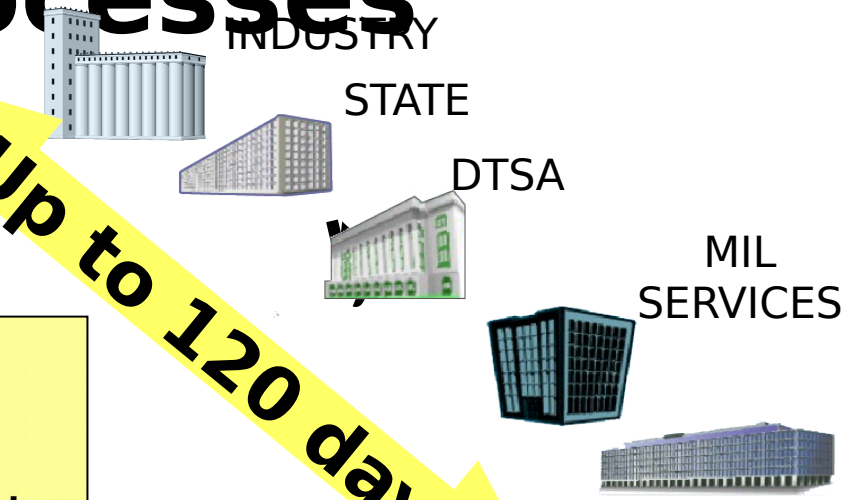
Export Control Examples

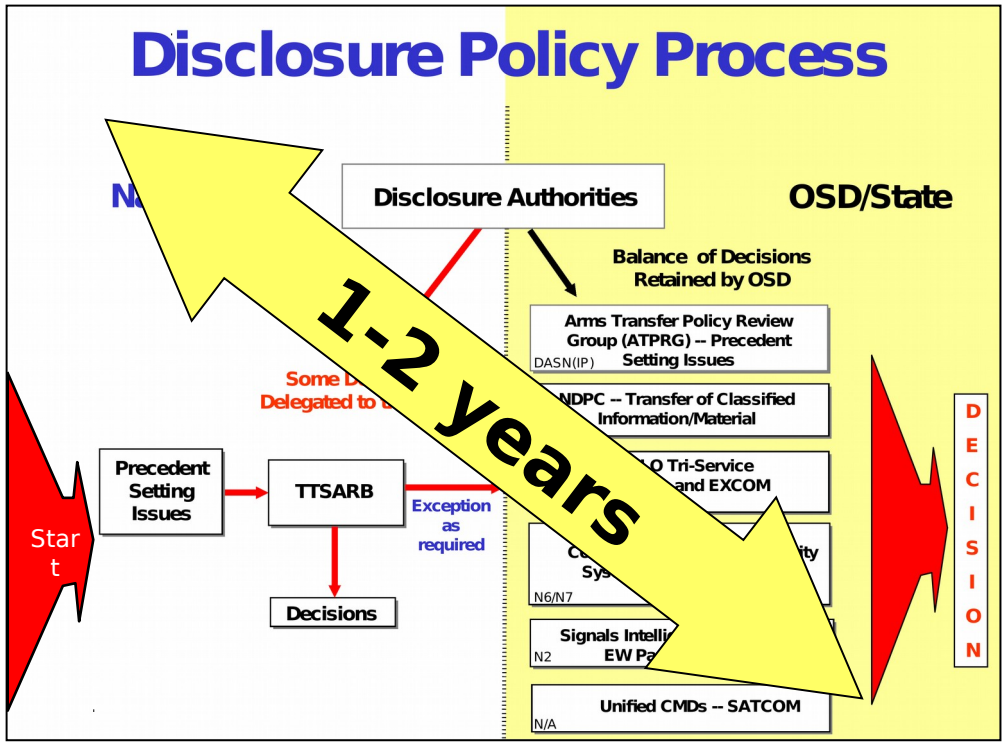
- Shipment to Foreign Destinations (Including Canada)
- Shipment to Foreign Entities in U.S. (e.g., Embassies)
- Foreign Travel
- Hand-carry
- Technical Services
- Electronic Transmission
- Symposia Presentations
- Published Articles
- Computer Networks (Internet, Intranet, Web Sites) … Laptops
- Conversation
- Business Meetings
- International Mail
- Telephone Conversations
- Foreign Visitors:
  - Facility Tours
  - Meetings
- Foreign Employees
- Trade Shows (U.S. & Overseas)

Red = IT-specific areas

Export Control vs TSFD Processes

Defense Industry Familiar with Export Control Processes





TSFD (Disclosure Policy) Processes Not as Well Understood by Defense Industry

USG/DoD TSFD Approvals Should Precede Export License Submission

Key Takeaways – Defense Services

Technology Security and Foreign Disclosure (TSFD)

- DoD contracting organizations are responsible for USG/DoD TSFD compliance
- Program Management Office (PMO) (or equivalent) has access to specific TSFD policy guidance pertaining to contracted defense service task(s)
- When needed, defense service contractors should seek TSFD policy guidance insights from PMO via Contracting Officer (CO) in accordance with contract provisions

Export Control (EC)

- DoD contractors are responsible for EC compliance -- not the DoD contracting org!
- Large defense companies are usually familiar with ITAR and EAR requirements – medium to small companies often are not

IT Protection – Information Categories

Governed by National Industrial Security Program Operating Manual (NISPOM) and Contract DD 254

CUI network access by Foreign Nationals often poses significant IT challenges due to the wide variation in TSFD disclosure and CUI protection policies across the USG and

Classified Military Information (CMI)	**Information originated by or for the DoD or its agencies or is under its jurisdiction or control; and that requires protection in the interests of national security**
Controlled Unclassified Information	**Unclassified information that requires safeguarding or dissemination controls, pursuant to and consistent with applicable law, regulations and Government-**
Foreign Government Information (FGI)	**Information provided to the USG by a foreign government (s) or international organization or produced jointly with expectation that information, the source, or both are to be held in confidence**

DoDM 5200.01 Vol 1-4; DoD Information Security Program

Key Takeaways – IT Defense Services

Foreign National Access to DoD Networks

- DoD contracting organizations are responsible for USG/DoD TSFD compliance regarding access to DoD classified and CUI networks by foreign nationals
- DoD PMO (or equivalent) has access to specific TSFD policy guidance for foreign nationals pertaining to specific contracted defense service network management/technical tasks
- Defense service network management/technical contractors should seek TSFD policy guidance regarding access by foreign nationals to DoD networks from PMO via Contracting Officer (CO) in accordance with contract provisions

Foreign National Access to Contractor Networks

- DoD contractors are responsible for EC compliance -- not DoD contracting organizations!

TSFD/EC & IT Resources

DAU Continuous Learning Course:

- **CLC 048 "Export Controls"**
  http://icatalog.dau.mil/onlinecatalog/courses.aspx?crs_id=2040

DAU Acquisition Community Connection (ACC):

- **TSFD and Export Control 'folder'**
  https://acc.dau.mil/CommunityBrowser.aspx?id=467062&lang=en-US
- **ACQ 130 Knowledge Repository 'folder'**
  https://acc.dau.mil/CommunityBrowser.aspx?id=642231&lang=en-US

Industrial Security:

- **National Industrial Security Program Operating Manual (NISPOM)**
  http://www.nispom.org/NISPOM-download.html
- **DD Form 254 – Contract Security Classification Specification**
  http://www.dami.army.pentagon.mil/site/IndustSec/DD254.aspx (Dept of Army guidance example)

TSFD/EC & IT Resources (con't)

- **Defense Federal Acquisition Regulation Supplement (DFARS):**
  - **Subpart 225.79 -- Export Control:**

    http://www.acq.osd.mil/dpap/dars/pgi/pgi_htm/current/PGI225_79.htm

  - **Information Technology:**

SUBPART 204.73--SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING

http://www.acq.osd.mil/dpap/dars/dfars/html/current/204_73.htm

SUBPART 239.71--SECURITY AND PRIVACY FOR COMPUTER SYSTEMS

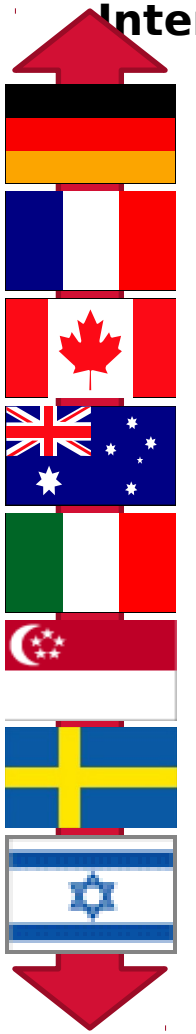
http://www.acq.osd.mil/dpap/dars/dfars/html/current/239_71.htm

DFARS Case 2013-D018--Network Penetration Reporting and Contracting for Cloud Services

https://www.federalregister.gov/articles/2015/08/26/2015-20870/defense-federal-acquisition-regulation-supplement-network-penetration-reporting-and-contracting-f

BACKGROUND INFO

TSFD
Key Players & Processes



International Interaction

USG/OSD/ Joint Staff Level

DoD Compone nt Level

CoCOM Country Team Level

USD (Policy)
USD (AT&L)
USD (Intelligence)
ASD(NII)

USG/Interagenc y

Nat'l Sec Council
Intel Community
State Dept
Commerce Dept
Homeland Sec Dept

- USG-wide Policy
- DoD-wide Policy
- Top Level TSFD approvals

Military Departments

SAF/IA ASA(DE&C) & G-2 NIPO

Proposed Policy Changes
Component Policy mplementation guidance & decisions

DoD Agencies: DSCA, DTSA, MDA, DTRA, DISA, etc.

AFSAC. AFMC AETC, etc.

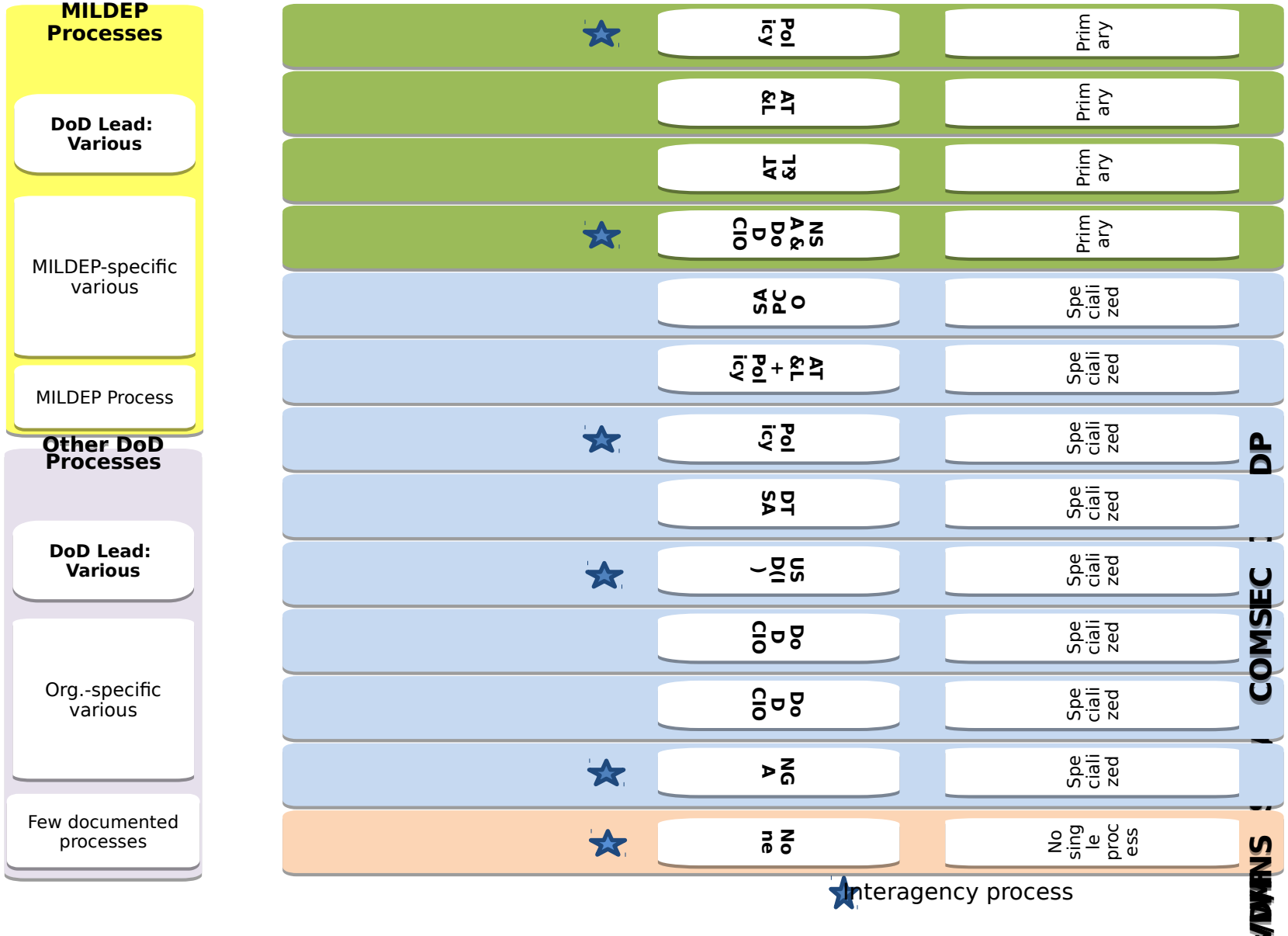
USASAC AMC, etc.

NETSAFA SYSCOMs, etc.

Labs, Warfare Centers, and Many Others

MAJCOMs PEOs/PMs mplementation Technical Details

USG/DoD TSFD Processes



Export Control Legislation

Arms Export Control Act

- Authority to promulgate regulations governing commercial exports of defense articles and services was delegated to the Secretary of State
- Implemented by the International Traffic in Arms Regulations (ITAR)
- Legal basis for the United States Munitions List (USML) – defense articles and services

Export Administration Act

- Authority to implement given to the Department of Commerce
- Implemented by the Export Administration Regulations (EAR)

USG Export Control System Overview

- **Federal Regulations:**
  - **ITAR – Defense Articles and Services**
  - **EAR – "Dual Use" Articles and Services + 600 Series items**
- **Key Organizations :**
  - **State Department -- Directorate of Defense Trade Controls (DDTC)**
  - **Commerce Department – Bureau of Industry and Security (BIS)**
  - **DoD – Defense Technology Security Administration (DTSA)**

Export Control Planning for Int'l Cooperative Programs (ICPs)

- **Technology Release Roadmap (TRR)**
  - **Prepared if a substantial amount of ICP activity is envisioned**
  - **Provides early planning for technology releases to foreign industry**
  - **Describes when the critical events regarding TSFD planning and implementation should be addressed**
  - **Projection of when U.S. industry export approvals may be required to support initial ICP efforts**
- **TRR sections**
  - **Timeline of key projected export approvals against the program acquisition schedule**
  - **Definition of the technologies involved in each**